

DISTRICT OF HIGHLANDS

BYLAW NO. 8

Being a Bylaw to establish a Board of Variance.

The Council of the District of Highlands, in open meeting assembled, ENACTS AS FOLLOWS:

1. Establishment:

Pursuant to Section 961 of the Municipal Act a Board of Variance for the District of Highlands is hereby established.

2. Secretary:

The Council shall appoint a Secretary to the Board of Variance. The responsibilities of the Secretary are:

- (a) to receive notices of appeal;
- (b) to determine whether the appeal seeks to vary a matter covered in a land use Contract, a permit under Division 5 of Part 29 of the Municipal Act or a registered covenant, which are outside of the jurisdiction of the Board of Variance or whether the appeal involves a matter within the jurisdiction of the Board of Variance;
 - i) if the appeal is outside the jurisdiction of the Board of Variance to notify The appellant;
 - ii) if it is within the Board's jurisdiction to notify the Chair of the Board of Variance of the receipt of the notice of appeal;
 - iii) to ensure that proper notification is given in compliance with this Bylaw;
- (c) to keep proper records of the Board of Variance proceedings; and,
- (d) to maintain a record of all decisions of the Board and make it available to the public in the Municipal Office during normal business hours.

3. Meetings:

- (a) meeting of the Board of Variance shall be held on the first Wednesday of each month, unless otherwise determined by the Chair of the Board of Variance in consultation with the Secretary and all other members of the Board of Variance.
- (b) In the event that no notice of appeal is deposited with the Secretary to the Board of Variance at least seven (7) calendar days prior to the date of the next meeting, then no meeting need be held.
- (c) A meeting of the Board of Variance on a particular appeal shall be held not more than forty (40) days after the date of receipt of the notice of appeal unless an extension is allowed by written consent of the appellant.
- (d) The Board of Variance shall be convened by the Chair on the date of the hearing and at the time set out in the notice.
- (e) The Board of Variance shall hear representation made to the Board.
- (f) The deliberations of the Board of Variance shall not be open to the public.

4. Notice of Appeal:

- (a) Any person desiring to appeal to the Board shall file a written notice of appeal with the Secretary to the Board. The notice shall clearly state the grounds upon which the appeal is based and the relief sought, and shall give an address to which all notices respecting an appeal hearing may be mailed.
- (b) Where the appeal is based upon a determination of value made pursuant to Subsection (8) of Section 970 of the Municipal Act, the notice of appeal shall be filed with the Secretary of the Board within thirty (30) days of the making of the determination.
- (c) The Secretary, upon the filing of an appeal, shall notify the Chair of the Board of the appeal and determine whether or not the hearing is to be held in public. The Chair may consult with other members of the Board in determining if the hearing should be public.
- (d) Upon receipt of the decision of the Chair on whether there should be public notice and the determination of a hearing date, the Secretary shall send by registered mail or otherwise deliver, not less than seven (7) days prior to the date of the hearing, notice of the hearing to:
 - i) the members of the Board of Variance;
 - ii) the appellant;
 - iii) the registered owners as shown on the last revised assessment roll and all occupiers of the subject property and all real property located adjacent to the parcel which is the subject of the appeal, including those separated by private or public rights-of-way;
 - iv) if an appeal under Section 962(1)(b), the official whose interpretation is being appealed.
- (e) The notice of the hearing shall state the date, time and place of the appeal hearing and shall include a copy of the notice of appeal.
- (f) Public notice of the hearing, if ordered by the Board, shall be given by publication of a notice stating the time and place of the hearing and the general nature of the appeal in not less than two consecutive issues of a newspaper circulating in the municipality, with the last such publication appearing not less than three days nor more than ten days before the date of the hearing.
- (g) The Secretary shall upon receipt of any notice of appeal, or any written evidence entered before the hearing including staff reports, permit the same to be inspected at the Secretary's office during regular office hours.

5. Conduct of Hearing:

- (a) A quorum for the hearing is two members. If the Chair is absent for a hearing, those present may appoint an Acting Chair for the duration of that hearing.
- (b) Any person or body with interest in property within the municipality is entitled to be heard at the hearing and is entitled to be represented by a solicitor or an agent duly appointed in writing.

- (c) Any person represented, in accordance with Subsection 5(b) above, whether or not also attending in person, shall be deemed to be a party attending the hearing.
- (d) Evidence at a hearing may be given orally or in writing.
- (e) The Board shall not hear oral evidence except at a regularly constituted hearing of the subject matter of that evidence.
- (f) No member of the Board shall discuss the merits of the appeal with any person who is not a member of the Board or the Secretary, prior to the Board reaching a decision.
- (g) The appellant shall be afforded the first opportunity to present his evidence and arguments, and thereafter, evidence and arguments shall be presented in such sequences the Chair may direct until all parties to the appeal have been afforded the opportunity to present their evidence and arguments.
- (h) The Board may view the property affected by the appeal and surrounding properties. The Board may adjourn the hearing from time to time and reconvene without further published notice if the time, date and place of reconvening is announced at adjournment.
- (i) If the appellant or other persons notified do not appear at the hearing or any adjournment thereof, and have not advised the Secretary in advance that they wish to be heard at another date, the Board may proceed to decide the appeal in his absence.

6. Decision:

- (a) The decision of the Board shall be by a majority of those members present and made within seven (7) days of the date the hearing was held.
- (b) The Secretary shall, within seven (7) days of a decision, send by registered mail or otherwise deliver the written decision of the Board of Variance to the appellant, all persons who made representation at the hearing and the municipal Building Inspector.
- (c) The Secretary shall, within seven (7) days of the decision, enter that decision in the record maintained at the Municipal Office.

7. Citation:

This Bylaw may be cited for all purposes as "Board of Variance Bylaw No. 8, 1993".

Read a first time this 13th day of December, 1993

Read a second time this 13th day of December, 1993

Read a third time this 13th day of December, 1993

Reconsidered and finally passed and adopted this 20th day of December, 1993

Mayor

Clerk